



Senate Bill 126: An Act Adding Wood Smoke to the Public Health Nuisance Code and Concerning Outdoor Wood-Burning Furnaces

The Hearth, Patio and Barbecue Association urges members of the Environment Committee to oppose Senate Bill 126 as drafted. We do not believe the legislation is needed or that it constitutes good public policy. Strategies now exist to address problems with individual generators of wood smoke where it becomes a nuisance to neighbors.

- **Wood Smoke emissions are regulated by the public health code**

Section 1 of the bill would require the Public Health Code to specify that wood smoke emissions can constitute a public nuisance. This concept was heard last session (HB 6616) and not enacted. The Department of Public Health (DPH) testified that the bill was unnecessary because the Code “*currently provides local health directors the authority to issue orders for abatement of wood smoke when they find it to be a public nuisance.*”¹ A recent test case has upheld this use of local authority, and we believe that is the appropriate way to handle such cases. As such, Section 1 is unnecessary and we would ask you to strike it from the bill.

- **Banning OWFs during certain months is not a reasonable policy**

Section 2 of the bill would ban the use of Outdoor Wood Furnaces (OWF) from April 15 through October 15—six months of a year.² HPBA believes there is no sound basis for this proposal. Current law already regulates the siting and use of OWFs (Section 22a-174k). A process has been established for resolving complaints over instances involving nuisance smoke. *Please know that upwards of 75 percent of all complaints that are lodged with DEP are in regard to just a handful of furnaces.* OWFs are a legal and desired consumer product in the State of Connecticut—owners should not be prohibited from utilizing them for ½ of a year. Based on the forgoing, we urge the committee to strike Section 2 and Section 3 of the bill.

- **SB 126 will cause a loss of jobs**

The economy has already resulted in lost sales and income for Connecticut-based OWF dealers. Local jobs will be lost if SB 126 is enacted. This is not the time to further penalize an industry sector that provides a natural source of heat to families and businesses that is not dependent on foreign oil or imported natural gas.

¹ Statement of Ellen Blaschinski, branch chief, regulatory services branch, Department of Public Health, to the Public Health Committee, HB 6616, *An Act Establishing Wood Smoke to be a Public Nuisance*, March 6, 2009.

² The proposed ban does not include Outdoor Wood Furnaces used for “agricultural purposes”—please see lines 12-14.

- **HPBA advocates substitute language**

HPBA believes the State of Connecticut *can* permit OWF use and achieve our air quality management objectives at the same time. We would propose the following approach:

- OWFs installed on or after October 1, 2010, will need to be from the new family of well-controlled models that are certified as meeting the EPA "Phase 2" voluntary guidelines for particulate matter emissions.
- The Phase 2 certified models represent the latest in new technology. They have very low emission rates and can be sited within 50 feet of a property line or 70 feet of the nearest home not served by the OWF, and still achieve our air quality management objectives. Testimony has been submitted to the committee today by *Tech Environmental* that shows this distance is quite adequate based on air dispersion modeling.
- We believe the statute governing chimney height of OWFs should be changed for Phase 2 models to require the stack to be at least two feet higher than the roof peak of any neighboring residence within 150 feet of a Phase 2 certified OWF. This will help disperse smoke more effectively.
- Retail dealers in Connecticut need to have some time to adjust to the new requirements. We believe it is reasonable to permit them to sell their existing stocks of OWFs up until September 30, 2011. At that point, sales will be limited to models that have been certified as meeting the Phase 2 guidelines. The requirements in Public Act 05-227 will be required for all installations of existing stock that are not Phase 2.

Thank you for considering the views of HPBA and our Connecticut dealers in regard to SB 126. We would suggest the best policy is to strike the bill in its entirety and substitute the provisions outlined above.

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Hearth, Patio & Barbecue Association (HPBA) is an international not-for-profit trade association first established in 1980 to represent and promote the interests of the hearth products industry in North America. In 2002, the Hearth Products Association (HPA) merged with the Barbecue Industry Association (BIA) to form HPBA. The association includes manufacturers, retailers, distributors, manufacturers' representatives, service and installation firms, and other companies and individuals - all having business interests in and related to the hearth, patio, and barbecue products industries. For more information on the activities of the HPBA, please go to www.hpba.org.

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